

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

GABRIEL CHAVEZ, et al.,

Plaintiffs,

v.

SAN FRANCISCO BAY AREA RAPID  
TRANSIT DISTRICT,

Defendant.

No. 22-cv-06119 WHA

**ORDER REGARDING UPCOMING  
TRIAL AND ORDER OF PROOF**

As stated during today's hearing, the parties will proceed in a two-step order of proof. In phase one, BART will try its undue hardship affirmative defense, and that issue alone, to the jury. Each side will have forty minutes for opening arguments and 280 minutes to put on evidence (which includes direct, cross, redirect, and recross examination). The jury will then be instructed on phase one and a special verdict on that issue will be returned by the jury. If BART prevails, phase one will conclude this trial. If the jury finds against BART on its undue affirmative defense, we will proceed to the second phase as to those plaintiffs who prevailed.

In phase two, each side will be permitted to present an opening argument. All remaining plaintiffs shall have the burden of proving their religious exemptions, except those conceded by BART. All plaintiffs shall present their

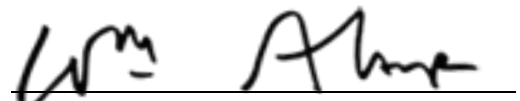
1 damages cases. The same jury will then be instructed on those issues and return a  
2 verdict.

3 If either side tries to impeach a witness with their testimony from the first  
4 trial, counsel shall refer to the prior trial as “the proceeding on [insert] date under  
5 oath.” Counsel shall instruct their witnesses not to mention the first “trial.”

6 Lastly, counsel are reminded to file their stipulated list of potential jurors  
7 who can be excused by **TOMORROW, OCTOBER 10, AT NOON.**

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9 **IT IS SO ORDERED.**

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11 Dated: October 9, 2024.

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14 WILLIAM ALSUP  
15 UNITED STATES DISTRICT JUDGE  
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